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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,722	01/04/2001	Shingo Iwasaki	041514-5103	2640

9629 7590 06/23/2003

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EXAMINER

BAUMEISTER, BRADLEY W

ART UNIT PAPER NUMBER

2815

DATE MAILED: 06/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Advisory Action

Application No.  
09/753,722

Applicant(s)  
Iwasaki et al.

Examiner  
B. William Baumeister

Art Unit  
2815



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED May 22, 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attachment

3. ☐ Applicant's reply has overcome the following rejection(s):

4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
see attachment

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-5, 7, 9-14, 30-34, 36, 38-43, and 47-50

Claim(s) withdrawn from consideration: 6, 8, 15-29, 35, 37, and 44-46

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). EDDIE LEE

10. ☐ Other: \_\_\_\_\_

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**TECHNOLOGY CENTER 2800**

Art Unit: 2815

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 5/22/2003 have been fully considered but they are not persuasive.

a. Applicant argues that the amendments to claims 47-50 do not relate to the independent claims and therefore do not raise new issues requiring further consideration and/or search. This argument is not persuasive because whether the claims are set forth in independent or dependent form has no bearing on whether the amendments require further consideration or search.

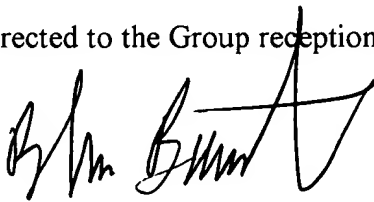
b. Applicant further argues that the cited prior-art references do not show that the insulating layer is "gradually reduced" as required by the (unamended) independent claims. This argument is not persuasive because, as was explained in the previous Office Action, Applicant has defined "gradually reduced" to include the reverse taper block structure depicted in FIGs (e.g., specification, page 31, first full paragraph at the middle of the page). As such, under the broadest reasonable interpretation, any taper (non-perpendicular wall) structure must fall within the definition of "gradually reduced." Any narrower interpretation that contemplates degrees of tapering to distinguish "gradually reduced" from "sharply reduced" structures would raise 112-2nd paragraph indefiniteness issues since no objective standard is available to distinguish a "sharply tapered structure" from a "gradually tapered structure."

Art Unit: 2815

c. Because the rejections set forth in the last Office Action were proper, and because the finality of the rejection was therefore proper, the present amendments to the dependent claims will not be entered because at least the newly proposed limitation, "to a thickness of zero," would require further consideration and search.

#### INFORMATION ON HOW TO CONTACT THE USPTO

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, **B. William Baumeister**, at (703) 306-9165. The examiner can normally be reached Monday through Friday, 8:30 a.m. to 5:00 p.m. If the Examiner is not available, the Examiner's supervisor, Mr. Eddie Lee, can be reached at (703) 308-1690. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.



B. William Baumeister

Patent Examiner, Art Unit 2815

June 19, 2003